

MISSOURI COURT OF APPEALS WESTERN DISTRICT

ROBERT FRANTZ,

Appellant,

v.

STATE OF MISSOURI,

Respondent.

DOCKET NUMBER WD76773

Date: September 16, 2014

Appeal from:
Lafayette County Circuit Court
The Honorable Dennis A. Rolf, Judge

Appellate Judges:
Division One: Mark D. Pfeiffer, Presiding Judge, Lisa White Hardwick and Karen King Mitchell, Judges

Attorneys:
Ellen H. Flottman, Columbia, MO, for appellant.
Todd T. Smith, Jefferson City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

COURT OF APPEALS -- WESTERN DISTRICT

ROBERT FRANTZ

Appellant,

v.

STATE OF MISSOURI,

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WD76773

Lafayette County

Before Division One: Mark D. Pfeiffer, Presiding Judge, Lisa White Hardwick and Karen King Mitchell, Judges

Robert Frantz appeals from the judgment denying his Rule 24.035 motion without an evidentiary hearing after he pled guilty to money laundering. Frantz contends the motion court clearly erred in denying his post-conviction motion because there was an insufficient factual basis for his plea and defense counsel was ineffective for failing to advise him that the State's evidence would not establish the elements of money laundering.

REVERSED AND REMANDED.

The motion court clearly erred in finding that there was a factual basis for Frantz's guilty plea. The crime of money laundering under Section 574.105.2(2), RSMo Cum. Supp. 2013, requires proof of two transactions: (1) the underlying criminal activity that produces proceeds; and (2) a subsequent transaction involving the physical transfer of the proceeds from one person to another with the purpose to conceal the

criminal nature, location, source, ownership, or control of those proceeds. The evidence in this case established only the first transaction and not the second.

The plea court's recital of the charge, which merely stated the statutory definition of money laundering and contained no factually-specific conduct, and Frantz's statements to the court that he understood the charge, his attorney had explained the charge to him, and he was guilty of the charge, did not establish a factual basis sufficient to render the plea voluntarily and knowingly made under *McCarthy v. U.S.*, 394 U.S. 459, 466 (1969). The exchange between the plea court and Frantz did not show that Frantz knew whether his conduct actually fell within the charge. Moreover, the plea court's reliance on Frantz's statement that his counsel advised him regarding the nature of the charge incorrectly assumed that counsel's advice was legally correct.

Opinion by: Lisa White Hardwick, Judge

September 16, 2014

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